

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

LeRoy K Wheeler,)	
)	
Plaintiff,)	
)	Case No. 2:12-cv-45
v.)	
)	REPORT AND
Rena M. DeSautel, Diane J. Manthei,)	RECOMMENDATION
and Mark J. McCarthy,)	
)	
Defendants.)	

LeRoy K Wheeler (“Wheeler”) has moved to proceed *in forma pauperis* (“IFP”) for his appeal to the Eighth Circuit Court of Appeals. (Doc. # 22). The court previously dismissed Wheeler’s 1983 action with prejudice because it is frivolous. (Doc. #17). The court also found that any appeal of the decision would be frivolous, could not be taken in good faith, and may not be taken IFP. *Id.* Accordingly, **IT IS RECOMMENDED** that Wheeler’s motion to proceed IFP (Doc. #22) be **DENIED**. Pursuant to Local Rule 72.1 (D)(3), Wheeler may file a written objection to this recommendation no later than January 28, 2013.

Dated this 11th day of January, 2013.

/s/ Karen K. Klein
Karen K. Klein
United States Magistrate Judge